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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|------------------------------|------------------|
| 10/676,279 | 09/30/2003 | Barry A. O'Mahony | 1020.P16567 | 7060 |
| 57035 7590 KACVINSKY LLC C/O INTELLEVATE P.O. BOX 52050 MINNEAPOLIS, MN 55402 | | | EXAMINER JONES, PRENELL P | |
| | | | ART UNIT 2616 | PAPER NUMBER |
| SHORTENED STATUTORY PERIOD OF RESPONSE | | | MAIL DATE | DELIVERY MODE |
| 3 MONTHS | | | 04/23/2007 | PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/676,279

Applicant(s)

O'MAHONY, BARRY A.

Examiner

Prenell P. Jones

Art Unit

2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 7/25/06.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>9/30/03</u> . | 6) <input type="checkbox"/> Other: _____ |

Specification

1. Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, ***and the abstract should be directed to the entire disclosure.*** If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:

- (1) if a machine or apparatus, its organization and operation;
- (2) if an article, its method of making;
- (3) if a chemical compound, its identity and use;
- (4) if a mixture, its ingredients;
- (5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

1. Applicant is reminded of the proper language and format for an abstract of the disclosure.

Art Unit: 2616

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range **of 50 to 150 words**. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. ***The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.***

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-19 are rejected under 35 U.S.C. 101 because independent claims 1, 14 and 18, recite a method. These claims appear to include a judicial exception, namely an abstract idea. Note that the method steps recited in claim 1, 14 and 18 has no practical applications claimed, i.e., no physical transformations taken place, non-functional, nor a useful, concrete and tangible result being produced, the claims are non-statutory. Claims 2-13 and 15-17 and 19 depend on independent claims 1 and 14 and 18 respectively therefore claims 2-13 and 15-17 and 19 are rejected as well.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-8, 10, 12 and 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Constant Six et al (US PGPUB 2003/0219015) in view of Chari et al (US Pat 6,449,288).

Regarding claim 1-8, 10 and 14-16, Constant Six et al (US PGPUB 2003/0219015) discloses encapsulating variable length packets to a defined into fixed defined blocks of data in a framing environment (paragraphs, 0001, 0008, 0010, 0034). Constant Six is silent on the first byte of codeword/blocks of data/frame being a synch byte. In a communication system, Chari discloses improved efficiency associated with framing in a communication system, wherein multiple code-words/data is associated with each frame, wherein a each frame starts with a sync byte and a group of data frames are appended with FEC/CRC to make a codeword/data (Abstract, Figs. 4-8, col. 3, line 35-65, col. 4, line 50-67).

Therefore, it would have been obvious to one of ordinary skill in the art to implement the first byte of data/codeword as being the synchronization byte as taught by Chari with the teachings of Constant Six for the purpose of improved efficiency in framing as it is associated in a communication system.

Regarding claim 12, Allison further discloses transmitting codeword over a media (Abstract).

4. Claims 18-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allison et al (US Pat 6,373,848) in view of Constant Six et al (US PG PUB 2003/0219015) and Chari et al (US Pat 6,449,288).

Regarding claims 18 and 19, Allison discloses framing in a communication system a multi-port adaptor a single MAC, wherein logic circuitry is reduced for transferring data between a host and TDM communication system, whereby each frame includes a preamble that that is stripped from the start of the frame delimiter, and CRC of remaining frame is determined/calculation, and the CRC is appended to a remaining portion of the frame to provide a complete frame, and the frame includes address pointers/frame markers, wherein the frame includes a start of frame pointer, idle state gap state, first data state, and groups of data (Abstract, Fig. 6, col. 4, line 6-51, col. 6, line 9-44, col. 7, line 13-22, col. 7 thru col. 9). However, Allison is silent on encapsulating the first byte of data/codeword is a synchronization byte. Allison is silent on synch byte being a first byte in a codeword and encapsulating variable to a fixed length. In a communication system, Constant Six et al (US PG PUB 2003/0219015) discloses encapsulating variable length packets to a defined into fixed defined blocks of data in a framing environment (paragraphs, 0001, 0008, 0010, 0034) and Chari discloses improved efficiency associated with framing in a communication system, wherein multiple code-words/data is associated with each frame, wherein a each frame starts with a sync byte and a group of data frames are appended with FEC/CRC to make a codeword/data (Abstract, Figs. 4-8, col. 3, line 35-65, col. 4, line 50-67).

Therefore, it would have been obvious to one of ordinary skill in the art to implement the first byte of data/codeword as being the synchronization byte and encapsulating a variable length to fixed length code-words as taught by the combined teachings of Constant Six and Chari with the teachings of Allison for the purpose of improved efficiency in framing as it is associated in a communication system.

Regarding to claim 20-22, as indicated above, Allison discloses framing in a communication system a multi-port adaptor a single MAC, wherein logic circuitry is reduced for transferring data between a host and TDM communication system, whereby each frame includes a preamble that that is stripped from the start of the frame delimiter, and CRC of remaining frame is determined/calculation, and the CRC is appended to a remaining portion of the frame to provide a complete frame, and the frame includes address pointers/frame markers, wherein the frame includes a start of frame pointer, idle state gap state, first data state, and groups of data (Abstract, Fig. 6, col. 4, line 6-51, col. 6, line 9-44, col. 7, line 13-22, col. 7 thru col. 9), and Constant Six et al (US PGPUB 2003/0219015) discloses encapsulating variable length packets to a defined into fixed defined blocks of data in a framing environment. (paragraphs, 0001, 0008, 0010, 0034), and Chari discloses improved efficiency associated with framing in a communication system, wherein multiple code-words/data is associated with each frame, wherein a each frame starts with a sync byte and a group of data frames are appended with FEC/CRC to make a codeword/data (Abstract, Figs. 4-8, col. 3, line 35-65, col. 4, line 50-67). Allison further discloses a MAC coupled to a PHY including encapsulation (Fig. 1, col. 6-8)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Prenell P. Jones whose telephone number is 571-272-3180. The examiner can normally be reached on 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham can be reached on 571-272-3179. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Prenell P. Jones

April 16, 2007


CHI PHAM
SUPERVISORY PATENT EXAMINER

4/16/07